HUSBAND AND WIFE--ALIENATION OF AFFECTIONS—JUSTIFICATION.—MILLER V. PEARCE, 85 ATL. REP., 620.—*Held,* an action by a wife for the alienation of the affections of her husband, is not defeated by the fact that the wife was entirely estranged from her husband before his acquaintance with defendant, but that fact was admissible only in mitigation of damages.

At common law the wife was not allowed to sue for the alienation of her husband's affections, *Van Arnam v. Ayres,* 67 Barb., 544; *Duffles v. Duffles,* 76 Wis., 374; *contra, Bennett v. Bennett,* 116 N. Y., 584; though some cases held she had the right to sue but the right was in abeyance because of coverture. *Smith v. Smith,* 98 Tenn., 101. Under present State statutes, however, one sex is not accorded relief denied reciprocally to another. *Schouler, Husband and Wife,* Chap. 3, page 532; *Sims v. Sims,* 76 Atl., 1063; *Keen v. Keen,* 49 Ore., 362. The only States now holding the contrary are Maine and Wisconsin. *Morgan v. Martin,* 92 Me., 190; *Duffles v. Duffles,* 76 Wis., 374. This right to sue accrues even if the marriage has not been physically consummated, *Cochran v. Cochran,* 111 N. Y. S., 588; and in an alienation suit the husband's conjugal affection is presumed. *Gregg v. Gregg,* 37 Ind. App., 210. Even lack of affection, though, is no bar to the action, *Morris v. Warwick,* 42 Wash., 480; nor need the defendant's acts be the sole cause of the alienation of affections. *Rath v. Rath,* 2 Neb., 600. Furthermore, the plaintiff need not show that the alienation of affections was committed before the husband's desertion of his wife. *Humphrey v. Pope,* 122 Cal., 253. The wife's right, then, to sue for the alienation of her husband's affections, just as he always might sue for the alienation of hers, seems thoroughly established. Of the three States that held the contrary, Maine and Wisconsin have not passed on the point recently, and New Jersey, in *Sims v. Sims,* cited *supra,* in July, 1910, overruled its decision in *Hodge v. Wetzler,* 69 N. J. L., and is now in accord with the majority opinion.

LIBEL—CRIMINAL RESPONSIBILITY—PLACE OF PUBLICATION.—PEOPLE V. BIHLER, 139 N. Y. S., 819.—A libelous letter is published both in the place where it is posted in the mail and in the place to which it is addressed, the postmark being *prima facie* evidence that the letter was in the postoffice on the date of the postmark; so that the publication of a libelous letter addressed to one in Switzerland was complete when deposited in the postoffice in New York city with postage prepaid for its transmission to Switzerland.

In libel there must be a publication, *Prescott v. Tousey,* 50 N. Y. S., 12, but the term "publication" is ambiguous. *Townshend, (Libel and Slander),* page 83. It has been held not to have the same meaning in criminal and civil prosecutions. *Watrous v. Chalker,* 7 Conn., 266, held it was criminal libel to send the libel to the one defamed; *contra, Lyle v. Clason,* 1 Caines, 581; *Wilcox v. Moon,* 64 Vt., 450; *McCarlie v. Atkinson,* 77 Miss., 594; *State v. Syphrett,* 2 S. E. Rep., 624, holding there must be, in criminal libel, as in civil libel, publication to a third person. *Clark, Criminal Law,* page 241, sustains the Connecticut doctrine on the ground that the